



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

Docket No. TSCA-08-2003-0003

In the Matter of:

Northwestern Corporation  
a/k/a North western Energy  
40 East Broadway Street  
Butte, MT 59701

a Delaware Corporation,  
Respondent.

**CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency, Region 8, and Respondent, Northwestern Corporation by its undersigned representatives, hereby consent and agree as follows:

1. The United States Environmental Protection Agency (EPA), Region 8, initiated this proceeding pursuant to Section 15 of the Toxic Substances Control Act (TSCA), 15 U.S.C. Section 2614.
2. This Consent Agreement shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.
3. Respondent, stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this Consent Agreement.

4. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

5. Respondent has demonstrated to the satisfaction of EPA that it has achieved compliance with the requirements that formed the basis of the Complaint.

6. Respondent, by executing this Consent Agreement, hereby certifies to EPA that it is now in compliance with each of the relevant provisions of Section 15 of TSCA, 15 U.S.C. Section 2614.

7. Complainant agrees to settle this matter for six thousand eight hundred dollars (\$6,800).

8. Respondent consents to the payment of a civil penalty in the amount of six thousand eight hundred dollars (\$6,800).

9. The United States Bankruptcy Court for the District of Delaware in the Chapter 11 proceeding In Re: NorthWestern Corporation, case number 03-12872 (CGC) by order dated November 6, 2003 approved settlement of small claims not exceeding \$25,000.00 without further order of the bankruptcy court. Attached hereto is a copy of the November 6, 2003 order by the Honorable Charles G. Case, II. Based upon that November 6, 2003 order no further approval by the bankrupt court is required for the settlement of this matter.

10. Within thirty (30) days of receiving a copy of the Final Order in this matter, Respondent shall submit a cashier's or certified check, payable to the order of the "Treasurer, United States of America," in the amount of six thousand eight hundred dollars (\$6,800) to:

U.S. EPA, Region 8  
(Regional Hearing Clerk)  
P.O. Box 360859M  
Pittsburgh, PA 15251

Respondent shall provide a copy of the check to:

Ms. Tina Artemis, RC                      and  
Regional Hearing Clerk  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

Brenda L. Morris, 8LEP  
Legal Enforcement Program  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

Interest and late charges shall be paid as specified in paragraph 12 herein.

11.     The penalty specified in Paragraph 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

12.     Respondent further agrees and consents that if Respondent fails to pay the penalty amount within 180 days of receipt of the Final Order, interest on the penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after receipt of the final order.

13.     Failure by Respondent to comply with any terms of this Consent Agreement, shall constitute a breach of the consent agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

14. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

15. Nothing in this Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations.

16. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

17. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

18. Each party shall bear its own costs and attorneys fees in connection with this matter.

19. This Consent Agreement, conditioned upon the approval of the bankruptcy court and upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, Office of Enforcement, Compliance  
and Environmental Justice, Complainant.**

Date: 4/5/04

By: **SIGNED** \_\_\_\_\_  
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program

Date: 4/5/04

By: **SIGNED** \_\_\_\_\_  
Martin Hestmark, Director  
Technical Enforcement Program

Date: 4/5/04

By: **SIGNED** \_\_\_\_\_  
Brenda L. Morris, Attorney  
Legal Enforcement Program

**NORTHWESTERN CORPORATION, Respondent.**

Date: \_\_\_\_\_

By: **SIGNED** \_\_\_\_\_  
(Signature of authorized person/Title)

**Michael J. Young**  
**Senior Corporate Counsel & Asst. Secretary**  
Print Name of Signatory

## **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **NORTHWESTERN CORP., a/k/a NORTHWESTERN ENERGY, DOCKET NO.: TSCA-08-2003-0003** was filed with the Regional Hearing Clerk on April 6, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on April 6, 2004, to:

Lee C. Graves  
Graves Law Office, P.C.  
619 S.W. Water Street, Suite 3C  
Peoria, IL 61602

November 26, 2003

**SIGNED**

\_\_\_\_\_  
Tina Artemis  
Regional Hearing Clerk

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENT PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON APRIL 6, 2004.**